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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/929,425	08/13/2001	Stephen F. Gass	SDT 311	9671
27630	7590	07/15/2004	EXAMINER	
SD3, LLC 22409 S.W. NEWLAND ROAD WILSONVILLE, OR 97070			ASHLEY, BOYER DOLINGER	
			ART UNIT	PAPER NUMBER
			3724	

DATE MAILED: 07/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/929,425

Applicant(s)

GASS ET AL.

Examiner

Boyer D. Ashley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 5, 6, 8 and 10-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7 and 9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4/14/04, 3/7/04.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☒ Other: 1449 - 2/9/04.

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## DETAILED ACTION

1. This office action is in response to applicant's amendment filed 3/19/04.

### ***Double Patenting***

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-4, 7, and 9 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of copending Application No. 10/052,274, U.S. Patent Application 2002/0059854. Although the conflicting claims are not identical, they are not patentably distinct from each other because they differ in claim terminology only but encompass the same subject matter.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

4. Claims 1, 4, and 7 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of copending Application No. 09/955,418, U.S. Patent Application 2002/0020265.

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Although the conflicting claims are not identical, they are not patentably distinct from each other because they differ in claim terminology only but encompass the same subject matter.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

5. Claims 1-4, 7, and 9 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-29 of copending Application No. 09/929,238, U.S. Patent Application 2002/0017179. Although the conflicting claims are not identical, they are not patentably distinct from each other because they differ in claim terminology only but encompass the same subject matter.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

6. Claims 1-4, 7, and 9 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-15 of copending Application No. 10/052,273, U.S. Patent Application 2002/0059853. Although the conflicting claims are not identical, they are not patentably distinct from each other because they differ in claim terminology only but encompass the same subject matter.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

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7. Claims 1-4, 7, and 9 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of copending Application No. 10/050,085, U.S. Patent Application 2002/0056349. Although the conflicting claims are not identical, they are not patentably distinct from each other because they differ in claim terminology only but encompass the same subject matter.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

8. Claims 1, 4, and 7 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-18 of copending Application No. 10/052,806, U.S. Patent Application 2002/0059855. Although the conflicting claims are not identical, they are not patentably distinct from each other because they differ in claim terminology only but encompass the same subject matter.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

9. Claims 1-4, 7, and 9 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-10 of copending Application No. 10/100,211, U.S. Patent Application 2002/0170399. Although the conflicting claims are not identical, they are not patentably distinct from each other because they differ in claim terminology only but encompass the same subject matter.

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This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1-4, 7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gaines, U.S. Patent 5,052,255, in view of Lokey, U.S. Patent 3,785,230, or Friemann et al., U.S. Patent 3,858,095.

Gaines discloses the invention substantially as claimed including a reaction system adapted to stop motion of the cutting tool into the cutting zone upon detection of a dangerous condition. However, Gaines does not disclose the dangerous condition being contact between the user and the cutting tool. Lokey and Friemann et al. both disclose that it is old and well known in the art to stop motion of a cutting tool when contact between a user and the tool is detected for the purpose of preventing serious injury of the user. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the device of Gaines to order further stop motion of the cutting tool into the cutting zone when contact between the user and the tool is detected in order to prevent further and serious injury to the user.

As to claims 2-3 and 9, the modified device of Gaines does not disclose two brakes for stopping the rotation of the cutting tool; however, Lokey and Friemann et al.

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discloses that it is old and well known in the art to stop the rotation of a cutting tool when contact between a user and the tool is detected for the purpose of preventing injury to the user. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to stop the rotation of the blade as well as the motion of the cutting tool into the cutting zone in order to prevent damage and injury to the user and tool when contact is detected between the user and the tool.

As to claim 4, the modified device of Gaines discloses the use of operative structure adapted to couple the cutting tool to the supporting structure.

### ***Response to Arguments***

12. Applicant's arguments filed 3/19/04 have been fully considered but they are not persuasive.

Applicant contends that Gaines does not disclose or suggest any system that can stop movement of a cutting tool into a cutting zone based upon detection of contract between a person and a cutting tool. Applicant further contends that there is no implicit teaching, suggestion, or motivation in the prior art to make the specifically claimed combination.

However, the examiner respectfully disagrees. There is no requirement for any specific teaching or statement be found in the prior art references. Rather, the test for combinations is what the combined teachings would have suggested to those of ordinary skill in the art. In this case, Gaines is only being used to disclose that it is old and well known in the art to stop the movement of a cutting tool into a cutting zone when a unsafe condition is created or forms. Therefore, it is irrelevant whether or not

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Gaines discloses an unsafe condition of contact between the user and tool. Lokey and Friemann are used to disclose it is old and well in the art to stop movement of blades upon contact of a user and the cutting tool. Therefore, one of ordinary skill in the art would readily recognize the combination and modification with Gaines such that the tool of Gaines also stop when another unsafe condition occurred, namely contact between the user and the blade.

13. For the reasons above, the grounds of rejection are deemed proper.

### ***Conclusion***

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

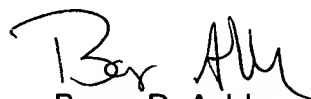


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Boyer D. Ashley whose telephone number is 703-308-1845. The examiner can normally be reached on Monday-Thursday 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 703-308-1082. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Boyer D. Ashley  
Primary Examiner  
Art Unit 3724

BDA  
July 12, 2004